APPENDIX A

Section 2 of the Emergency Price Control Act of 1942, 56 Stat. 23, 50 U. S. C. (Supp. III) 901, *et seq.* authorizes the Price Administrator, by order or regulation, to establish such maximum price or maximum prices as in his judgment will be generally fair and equitable and will effectuate the purposes of the act. Section 202 (a) reads as follows:

> The Administrator is authorized to make such studies and investigations and to obtain such information as he deems necessary or proper to assist him in prescribing any regulation or order under this Act, or in the administration and enforcement of this Act and regulations, orders, and price schedules thereunder.

Section 202 (b) provides:

> The Administrator is further authorized, by regulation or order, to require any person who is engaged in the business of dealing with any commodity, or who rents or offers for rent or acts as broker or agent for the rental of any housing accommodations, to furnish any such information under oath or affirmation or otherwise, to make and keep records and other documents, and to make reports, and he may require any such person to permit the inspection and copying of records and other documents, the inspection of inventories, and the inspection of defense-area housing accommodations. The Administrator may administer oaths and affirmations and may, whenever necessary, by subpena require any such person to appear and testify or to appear and produce documents, or both, at any designated place.

Section 205 (e) of the Act as originally enacted read as follows:

> If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, the person who buys such commodity for use or consumption other than in the course of trade or business may bring an action either for $50 or for treble the amount by which the consideration exceeded the applicable maximum price, whichever is the greater, plus reasonable attorney's fees and costs as determined by the court. For the purposes of this section the payment or receipt of rent for defense-area housing accommodations shall be deemed the buying or selling of a commodity, as the case may be. If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, and the buyer is not entitled to bring suit or action under this subsection, the Administrator may bring such action under this subsection on behalf of the United States. Any suit or action under this subsection may be brought in any court of competent jurisdiction, and shall be instituted within one year after delivery is completed or rent is paid. The provisions of this subsection shall not take effect until after the expiration of six months from the date of enactment of this Act.

As amended by Section 108 (b) of the Stabilization Extension Act of 1944 (58 Stat. 640, 50 U. S. C. A. App. 925 (e)), the Section now provides:

> If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, the person who buys such commodity for use or consumption other than in the course of trade

or business may, within one year from the date of the occurence of the violation, except as hereinafter provided, bring an action against the seller on account of the overcharge. In such action, the seller shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (1) Such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may determine, or (2) an amount not less than $25 nor more than $50, as the court in its discretion may determine: *Provided, however,* That such amount shall be the amount of the overcharge or overcharges or $25, whichever is greater, if the defendant proves that the violation of the regulation, order, or price schedule in question was neither wilfull nor the result of failure to take practicable precautions against the occurrence of the violation. For the purposes of this section the payment or receipt of rent for defense-area housing accommodations shall be deemed the buying or selling of a commodity, as the case may be; and the word "overcharge" shall mean the amount by which the consideration exceeds the applicable maximum price. If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, and the buyer either fails to institute an action under the subsection within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the Administrator may institute such action on behalf of the United States within such one-year period. If such action is instituted by the Administrator, the buyer shall thereafter be

> barred from bringing an action for the same violation or violations. Any action under this subsection by either the buyer or the Administrator, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this subsection shall be a bar to the recovery under this subsection of any damages in any other action against the same seller on account of sales made to the same purchaser prior to the institution of the action in which such judgment was rendered.

Section 108 (c) of the Stabilization Extension Act of 1944 provides that:

> the amendment made by subsection (b), insofar as it relates to actions by buyers or actions which may be brought by the Administrator only after the buyer has failed to institute an action within thirty days from the occurrence of the violation, shall be applicable only with respect to violations occurring after the date of enactment of this Act. In other cases, such amendment shall be applicable with respect to proceedings pending on the date of enactment of this Act and with respect to proceedings instituted thereafter.

The General Maximum Price Regulation (7 F. R. 3153, 8 F. R. 3096) was issued on April 28, 1942, under Section 2 of the Act. The pertinent provisions of the regulation are Sections 1499.2, 1499.11, 1499.12, 1499.13. Section 1499.2 establishes the maximum prices at which any seller may lawfully sell any of the commodities subject to the regulation, including certain species of lumber and lumber products; these are the highest prices charged by the seller therefor during March 1942.

Section 1499.11, 1499.12 and 1499.13 provide respectively as follows:

§ 1499.11. *Base-period records.*—Every person selling commodities or services for which, upon sale by that person, maximum prices are established by this Regulation, shall:

(a) Preserve for examination by the Office of Price Administration all his existing *records* relating to the prices which he charged for such of those commodities or services as he delivered or supplied during March 1942, and his offering prices for delivery or supply of such commodities or services during such month; and

(b) Prepare, on or before July 1, 1942, on the basis of all available information and records, and thereafter keep for examination by any person during the ordinary business hours, a statement showing:

(1) The highest prices which he charged for such of those commodities or services as he delivered or supplied during March 1942, and his offering prices for delivery or supply of such commodities or services during such month, together with an appropriate description or identification of each such commodity or service; and

(2) All his customary allowances, discounts, and other price differentials.

Any person, other than a person selling at retail, who claims that substantial injury would result to him from making such statement available to any other person, may file it with the appropriate field office of the Office of Price Administration. The information contained in such statement will not be published or disclosed unless it is determined that the withholding of such information is contrary to the purposes of this Regulation.

§1499.12. *Current records.*—Every person selling commodities or services for which, upon sale by that person, maximum prices are established by this Regulation shall keep, and make available for examination by the Office of Price Administration, records of the same kind as he has customarily kept, relating to the prices which he charged for such of those commodities or services as he sold after the effective date of this Regulation; and, in addition, records showing, as precisely as possible, the basis upon which he determined maximum prices for those commodities or services.

§ 1499.13. *Maximum Prices of cost-of-living commodities—statement, marking, or posting.*—For the purposes of this section, a cost-of-living commodity is any commodity designated as such by the Price Administrator. A list of the classes of commodities so designated appears in sec. 1499.25, Appendix B, of this Regulation.

(a) On and after May 18, 1942, every person offering to sell a cost-of-living commodity at retail shall mark the maximum price of such commodity in a manner plainly visible to, and understandable by, the purchasing public. The maximum price may be marked on the commodity itself or on the shelf, bin, rack, or other holder or container upon or in which the commodity is kept, or it may be posted at the place in the business establishment where the commodity is offered for sale * * *. The maximum price shall be stated as follows: "Ceiling Price $_____," or "Our Ceiling $_____." Any person choosing to post by price-lines the maximum prices of commodities in the classifications marked by asterisks in sec. 1500.25, Appendix B, shall post the maximum price by price-line at the place in the business establishment where the commodities in such price-line are offered for sale,

and, in addition, shall mark the selling price of each such commodity on the commodity itself.

(b) On or before July 1, 1942, every person offering to sell cost-of-living commodities at retail shall file with the appropriate *War Price and Rationing Board* of the Office of Price Administration a statement showing his maximum price for each such commodity, together with an appropriate description or identification of it. Such statement shall be kept up to date by such person by filing on the first day of every month a statement of his maximum price for any cost-of-living commodity newly offered for sale during the previous month, together with an appropriate description or identification of the commodity.

Maximum Price Regulation No. 215 (8 F. R. 8705) was also issued under Section 2 of the Act. It establishes the maximum prices which may lawfully be charged by distribution yards for certain species of lumber or lumber products at the mill prices therefor, which are fixed by separate regulations, plus specified mark-ups.

Section 15 of the Regulation reads as follows:

What records must be kept.—All distribution yards must keep records which will show a complete description of the items of lumber sold (i. e., grade, condition of dressing, quantity, etc.), the name and address of the buyer, the date of the sale and the price for a period of two years. They must keep similar records of all purchases.

APPENDIX B

In the District Court of the United States, Southern District of California, Central Division

No. 3177 PH Civ.

CHESTER BOWLES, ADMINISTRATOR, OFFICE OF PRICE ADMINISTRATION, PLAINTIFF

v.

GLICK BROTHERS LUMBER COMPANY, A CALIFORNIA CORPORATION, MAX GLICK, OSCAR GLICK, ADOLPH GLICK, DAVID GLICK, ISRAEL GLICK AND LABEL GLICK, INDIVIDUALLY, AND DOING BUSINESS AS GLICK BROTHERS LUMBER COMPANY, ET AL., DEFENDANTS

RECEIPT

Received from Chester Bowles, Administrator of the Office of Price Administration, plaintiff in the above-entitled matter, and Morris Lavine, attorney for the above-named defendants, the following documents and evidence heretofore ordered by the Circuit Court of Appeals of the Ninth Circuit, by order dated January 24, 1944, to be impounded in the United States District Court, Southern District of California, Central Division, until further order of said Circuit Court of Appeals:

1. Information sheet, being a survey of mill manifests, received from six mills by defendants, consisting of one page, numbered Exhibit "1".

2. Financial statement of defendant corporation, prepared by H. E. Young & Company dated July 21, 1943, containing condensed balance sheet as of

June 30, 1943, and statement of profit and loss covering period from January 1 to June 30, 1943, numbered Exhibit "1–2".

3. Five photostats clipped together, being Lumber Estimate Nos. 00064; 04201; 04202 and 07979, and Dray Ticket No. 14957, all of Glick Brothers Lumber Company and numbered Exhibit "3".

4. Three photostats clipped together, numbered Exhibit "4" being Lumber Estimate Nos. 01390, 04668 and 07624 of defendant corporation.

5. Copy of letter dated April 28, 1943, from Owen Rhodes to Mr. J. B. Allen, numbered Exhibit "4–2".

6. Five photostats clipped together, numbered Exhibit "5", being Lumber Estimate Nos. 04397, 07926 and 04399, and Dray Tickets Nos. 25393 and 25391, of the defendant corporation.

7. Copy of letter dated June 9, 1943, from James I. Barnes Construction Co. to Glick Brothers Lumber Company, numbered Exhibit "5–2".

8. Photostat of Lumber Estimate No. 07074 of defendant corporation, together with two riders, numbered Exhibit "6."

9. Copy of letter dated June 14, 1943, from Glick Brothers Lumber Company to James I. Barnes Construction Company, numbered Exhibit "6–2."

10. Three photostats clipped together, numbered Exhibit "7," being Lumber Estimate Nos. 01549 and 03126 and 07210, of the defendant corporation.

11. Information Sheet, being a transcript of sales of U. S. Engineers, San Bernardino, consisting of one sheet and numbered Exhibit "13–2."

12. The Information Sheet, being a list of 94 jobs furnished by defendants to World Home Builders and Golden State Land and Investment Company,

consisting of one sheet and being numbered Exhibit "18–2."

13. Statement of Max Glick, dated June 3, 1943, sworn to before John A. Cristiansen, Investigator, Office of Price Administration, together with rider attached, consisting of three pages and being numbered Exhibit "A–2."

14. Work sheets of OPA investigators, containing a transcript of overcharges made during April 1943 by defendants, consisting of six pages and being numbered Exhibit "B."

15. Work sheets of OPA investigators, containing a transcript of overcharges by defendants, consisting of a total of eighty-nine pages and being numbered Exhibit "B–2," as follows:

September 1942, one page.
October 1942, five pages.
November 1942, twenty-three pages.
December, eight pages.
January 1943, one page
February 1943, one page

August 1942, one page.
September 1942, six pages.
October 1942, seven pages.
November 1942, two pages
December 1942, five pages.
January 1943, six pages.
February 1943, four pages.
March 1943, three pages.
April 1943, seven pages.
May 1943, four pages.
June 1943, two pages.
July 1943, three pages.
(Total, eighty-nine pages.)

16. Work sheets of OPA investigators, containing a transcript of overcharges made during October 1942

by defendants, consisting of fifteen pages and being numbered Exhibit "C."

17. Work sheets of OPA investigators, containing a transcript of mill manifests of lumber received by defendant corporation, consisting of seven pages and numbered Exhibit "C–2."

18. Copy of Basing List "U," Lumber, Los Angeles, effective July 31, 1941, numbered Exhibit "D–2."

19. Work sheets of OPA investigators, containing list of sales of rough lumber sold to Barnes Construction Company by defendant corporation from period of July 1942 to March 1943, consisting of two sheets and one rider (not numbered as exhibit).

20. Work sheet of OPA investigators, being a recapitulation of Barnes Construction Company account with defendant corporation, consisting of one page (not numbered as exhibit).

Dated February 14, 1944.

EDMUND L. SMITH,
Clerk of the United States District Court,
Southern District of California,
Central Division.

By JOHN A. CHILDRESS,
Deputy Clerk.

U. S. GOVERNMENT PRINTING OFFICE: 1945